



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

Website: <http://www.elec.state.nj.us/>

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August 28, 2019

Rebecca Moll Freed, Esq.
Genova Burns LLC
494 Broad Street
Newark, NJ 07102

Advisory Opinion No. 01-2019

Dear Ms. Freed:

You submitted a request for an Advisory Opinion (AO) on behalf of New Jersey Community Initiatives (NJCI), which was received by the New Jersey Election Law Enforcement Commission (ELEC or Commission) on July 24, 2019. The additional information you submitted, as requested by ELEC, was received on August 15, 2019. Your request has been reviewed and considered at a Commission meeting held on August 27, 2019. I am issuing this response pursuant to N.J.S.A. 19:44A-6(f).

Your request for an AO asked whether an independent expenditure committee can retain the services of Stephanie Wohlrab, a professional campaign fund raiser (PCFR) who is also a "candidate" as defined by N.J.S.A. 19:44A-3(c), and remain in compliance with N.J.S.A. 19:44A-9(h).

Commission Response

You are advised that NJCI may retain the services of Ms. Wohlrab, a PCFR who is also a candidate, and remain in compliance with N.J.S.A. 19:44A-9(h), as long as her activities are limited to fund raising and she is not directly or indirectly involved in the management or control of NJCI. Further, you are advised that the above actions would not violate L. 2019, c. 124, as long as Ms. Wohlrab is not involved in the control or management of NJCI, and NJCI does not make any independent expenditures related to her candidacy.

Submitted Facts

You indicate that NJCI is an independent expenditure only committee that is registered with the Commission. Specifically, you state that “NJCI plans to engage in independent expenditures on an ongoing basis in New Jersey and has, therefore, registered with the Commission as a continuing political committee [CPC] engaged in independent expenditure activity only.”¹

NJCI would like to retain Stephanie Wohlrab, a PCFR registered with the Commission, to provide professional fundraising services for NJCI. Ms. Wohlrab currently serves as a member of the Brick Board of Education, an elected public official that maintains an active candidate committee and files reports with the Commission. Accordingly, you state that it is your understanding that Ms. Wohlrab is a “candidate” under the Campaign Act and is therefore subject to the restrictions set forth in N.J.S.A. 19:44A-9(h). You indicate that although Ms. Wohlrab has provided services to various candidate committees as a PCFR, to date she has not provided any services to any CPCs or independent expenditure committees registered in New Jersey.

As to Ms. Wohlrab’s role with NJCI, you state that it will be limited to providing professional fundraising services pursuant to Commission regulations, N.J.A.C. 19:25-21.1 et seq., and you represent the following:

- NJCI communications will clearly identify or convey that Ms. Wohlrab is a professional fundraiser that is an outside professional;
- NJCI will pay Ms. Wohlrab’s customary fee for such services; and,
- Ms. Wohlrab will not be involved in or exercise discretion over management or control of NJCI.

As Ms. Wohlrab is also a candidate, you represent that NJCI will not make any independent expenditures in support of her campaign for elected office or advocating the defeat of her opponents.

On June 5, 2019, NJCI filed with the Federal Election Commission (FEC) a Statement of Organization (FEC Form 1) that designated Ms. Wohlrab as the Treasurer. You state that, after discussions with your firm, it was decided that NJCI should register with ELEC as opposed to the FEC. You further state that “[w]hile registered with the FEC, NJCI did not raise any funds or conduct any activities.” NJCI filed an FEC Form 99 on June 25, 2019, terminating its registration with the FEC. FEC Form 99 states the following: “No activity; Did not open bank account or begin fundraising activities; No expenses have occurred (sic)”; and, “Committee is not moving forward.” Ms. Wohlrab received correspondence from the FEC dated July 8, 2019 stating that NJCI’s filing had been terminated. You state that “[a]side from this now-terminated FEC committee, there are no related committees registered with either the Commission or the FEC, or in any other jurisdiction.”

Discussion

A PCFR is a “person who is employed, retained, or engaged for monetary compensation of at least \$5,000 per year ... to perform for any candidate or committee, or both, any service directly related to the

¹ According to Commission records, NJCI filed a Form D-4, Continuing Political Committee – Registration Statement and Designation of Organizational Depository, on July 8, 2019 indicating NJCI is an Independent Expenditure Only Committee.

solicitation of contributions for that candidate or committee.” N.J.A.C. 19:25-21.1. PCFRs must register with ELEC and report on a quarterly basis the following: the candidate/committee for which services are provided; specific services provided; gross and net amounts raised; compensation from each committee; and, a list of expenditures. N.J.A.C. 19:25-21.2; N.J.A.C. 19:25-21.3(a). Ms. Wohlrab is registered with the Commission as a PCFR.

A candidate is defined as an “individual seeking election to a public office of the State or of a county, municipality or school district” and an individual who has been elected, commonly referred to as an office holder, who receives contributions and makes expenditures for any purpose authorized by the Campaign Act. N.J.S.A. 19:44A-3(c); N.J.A.C. 19:25-1.7. Ms. Wohlrab meets the definition of a candidate.

The Campaign Act specifically precludes a candidate from participating, directly or indirectly, in the management or control of a CPC or political committee. N.J.S.A. 19:44A-9(h). NJCI registered with the Commission as a CPC, specifically an independent expenditure only committee.

Newly enacted L. 2019, c. 124, amends the Campaign Act to include certain requirements for independent expenditure committees. Pursuant to L. 2019, c. 124, independent expenditure committees are required to report their contributions and expenditures by filing quarterly reports and certain election cycle notices.² As NJCI is an independent expenditure committee, this AO request is also being considered pursuant to these amendments to the Campaign Act.

An independent expenditure committee is defined as:

[A] person organized under section 527 of the federal Internal Revenue Code (26 U.S.C. s.527) or under paragraph (4) of subsection (c) of section 501 of the federal Internal Revenue Code (26 U.S.C. s.501) that does not fall within the definition of any other organization subject to the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.), that engages in influencing or attempting to influence the outcome of any election or the nomination, election, or defeat of any person to any State or local elective public office, or the passage or defeat of any public question, legislation, or regulation, or in providing political information on any candidate or public question, legislation, or regulation, and raises or expends \$3,000 or more in the aggregate for any such purpose annually, but does not coordinate its activities with any candidate or political party as determined by the Election Law Enforcement Commission pursuant to the provisions of section 11 of P.L. 2019, c.124 (C.19:44A-3.1).

L. 2019, c. 124, § 1(t). The term independent expenditure means:

an expenditure by a person expressly advocating, or the functional equivalent thereof, the election or defeat of: (1) a clearly identified candidate that is not made in concert or cooperation with or at the request or suggestion of the candidate, the candidate’s committee, a political party committee, or an agent thereof; or (2) a public question, legislation, or regulation, that is not made in concert or cooperation with or at the request or suggestion of the sponsors, organizers, or committee supporting or opposing the question, legislation, or regulation, a political party, or agents thereof.

² Under the new law, the first report is due January 15, 2020. L. 2019, c. 124, § 13.

Id., (v). Like the restrictions set forth in N.J.S.A. 19:44A-9(h), candidates or office holders are prohibited from participating in the control or management of an independent expenditure committee. L. 2019, c. 124, § 4.

Moreover, for an entity to be an independent expenditure committee, it cannot “coordinate its activities with any candidate or political party as determined by the Election Law Enforcement Commission” pursuant to Section 11 of L. 2019, c.124. Id. at § 1(t). When determining whether an independent expenditure committee has made a coordinated expenditure with a candidate, the Commission must consider whether the candidate:

- a. cooperated with, consented to, authorized, or exercised control over the production or circulation of the communication expenditure;
- b. requested or suggested that the communication expenditure be made;
- c. provided information to the person or entity making the communication expenditure with regard to the content, timing, location, mode, intended audience, distribution, or placement of the television, radio, direct mail, or other form of communication;
- d. discussed or negotiated with the purchaser, creator, producer, or distributor of the communication concerning the content, timing, location, mode, intended audience, distribution, or placement of the communication;
- e. shared information or held discussions on campaign or media strategy with the person or entity making the communication expenditure or with the purchaser, creator, producer, or distributor of the communication;
- f. shared its polling or other research with the person or entity making the communication expenditure or whether or not the person or entity making the communication expenditure shared its polling or other research with the candidate, candidate committee, or with any agent of the candidate or candidate committee;
- or,
- g. engaged in any other activity the Election Law Enforcement Commission determines, by regulation, constitutes a coordinated expenditure.

L. 2019, c. 124, § 11. As Ms. Wohlrab is a candidate, she is precluded from engaging in any of the above activities.

NJCI contends that Ms. Wohlrab and NJCI “understand that she is not permitted to serve as Treasurer of NJCI as a Commission-registered entity” and that her appearance as the Treasurer on NJCI’s FEC filings was limited to independent expenditures made in relation to only federal elections. In the AO request, you state the following:

[I]n an abundance of caution, should the Commission determine that NJCI may hire the Fundraiser, NJCI agrees not [to] make any independent expenditures related to any election in which the Fundraiser is seeking elective public office. In other words, NJCI will not make any independent expenditures advocating for the election of the Fundraiser to office or the defeat of any of the Fundraiser’s opponents.

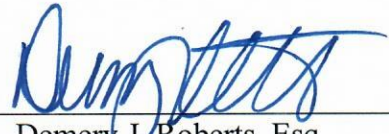
As L. 2019, c. 124, has been recently enacted, the Commission has not yet promulgated regulations. However, it is the Commission’s position that should NJCI hire Ms. Wohlrab, who is also a candidate,

any expenditures related to an election where she is seeking public office, either in support of the PCFR or advocating the defeat of an opponent, may be deemed to be coordinated. Thus, it is the Commission's position that NJCI is precluded from making such expenditures. See L. 2019, c. 124, §§ 1(t) and 11.

Conclusion

Based upon the facts represented in your Request for an Advisory Opinion, and the facts represented in your letter dated August 14, 2019, the Commission concludes that NJCI can retain the services of Ms. Wohlrab, a professional campaign fund raiser, who is also a candidate and remain in compliance with N.J.S.A. 19:44A-9(h), as long as Ms. Wohlrab does not participate directly or indirectly in the management or control of NJCI. You are further advised that NJCI can retain the services of Ms. Wohlrab, and comply with L. 2019, c. 124, as long as Ms. Wohlrab does not directly or indirectly participate in the control or management of NJCI, and that NJCI does not make any coordinated expenditures with her candidate committee.

Very truly yours,
Election Law Enforcement Commission

By: 
Demery J. Roberts, Esq.



Advisory Opinion Request For Candidates and Committees

FOR STATE USE ONLY

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
P.O. Box 185, Trenton, NJ 08625-0185
(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)
Website: www.elec.state.nj.us

ELEC RECEIVED
JUL 24 2019

PLEASE PROVIDE THE INFORMATION REQUESTED BELOW

A person, committee or entity subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request must include the following:

1. This request for an Advisory Opinion is being submitted on behalf of:

Full name of Person, Committee, or Entity:

New Jersey Community Initiatives ("NJCI")

Mailing Address:

c/o Genova Burns LLC

494 Broad Street, Newark, New Jersey 07102

*Day Telephone Number:

973-533-0777

*Evening Telephone Number:

973-533-0777

2. Indicate if the above named person, committee, or entity currently files reports with the Commission:

☒ Yes

☐ No

a. If yes, indicate in what capacity it is filing:

Candidate committee ☐

Joint candidates committee ☐

Political committee ☐

Continuing political committee ☐

Political party committee ☐

Legislative leadership committee ☐

Recall committee ☐

Recall defense committee ☐

Personal financial disclosure statement ☐

Other (please describe): ☒

Independent Expenditure Only Committee

b. If no, indicate if the above named person, committee, or entity has in the past filed reports with the Commission, giving elections (i.e., 2005 general election) or calendar years, and identify filing capacity:

c. If reports are or were filed under a different name than that appearing in Question #1 above, provide that name:

3. Please provide below a statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and Commission regulations (if known).

May a Commission-registered Independent Expenditure Only Committee retain the outside professional fundraising services of an individual who is registered with the Commission as a Professional Campaign Fundraiser and who also currently meets the definition of a "candidate" while remaining in compliance with the provisions and requirements N.J.S.A. 19:44A-9(h) ("Section 9h")?

*Leave this field blank if your telephone number is unlisted. Pursuant to N.J.S.A. 47:1A-1.1, an unlisted telephone number is not a public record and must not be provided on this form.

4. Please provide below a full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Your statement must affirmatively state that the contemplated activities have not already been undertaken by the person, committee, or entity requesting the opinion, and that the person, committee, or entity has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act. Attach additional sheets if necessary.

Statement of Facts:

NJCI is a Commission-registered Independent Expenditure Only Committee that, in accordance with the District of New Jersey's 2013 decision to issue a permanent injunction in the case of Fund for Jobs, Growth, & Security v. New Jersey Election Law Enforcement Commission, makes only independent expenditures as that term is defined in N.J.A.C. 19:25-12.7 and may accept unlimited contributions from permitted contributors.

NJCI wishes to retain the outside professional fundraising services of an individual who is registered with the Commission as a Professional Campaign Fundraiser and who also currently meets the definition of a "candidate" for purposes of Section 9h (the "Fundraiser"). The Fundraiser currently serves as an elected public official in New Jersey and maintains an active candidate committee that is registered with and reports to the Commission. It is our understanding that the Fundraiser therefore meets the definition of a "candidate" under N.J.S.A. 19:44A-3(c) and is therefore subject to the restrictions of Section 9h.

In accordance with applicable law, the Fundraiser has provided professional fundraising services to various candidate committees in New Jersey. To date, the Fundraiser has not provided professional fundraising services to any New Jersey registered continuing political committee or independent expenditure only committee. NJCI wishes, however, to retain the services of the Fundraiser while ensuring compliance with Section 9h. To this end, the Fundraiser's role will be limited to providing outside professional fundraising services to NJCI, in accordance with the Commission regulations for such a position under N.J.A.C. 19:25-21.1 et seq. To properly communicate the Fundraiser's role in NJCI, all references to the Fundraiser in NJCI communications will identify the Fundraiser as an "Outside Fundraising Professional" or similar language that clearly conveys that the Fundraiser is an outside vendor to NJCI. NJCI is also willing to take other reasonable steps to communicate the Fundraiser's role in the committee. NJCI will pay, as consideration for the outside professional fundraising services, the Fundraiser's usual and customary fee. The Fundraiser will not play any role in, or exercise any discretion over, the management or control of NJCI, including the determination of its overall political goals or specific expenditure decisions. Further, in an abundance of caution, should the Commission determine that NJCI may hire the Fundraiser, NJCI agrees not make any independent expenditures related to any election in which the Fundraiser is seeking elective public office. In other words, NJCI will not make any independent expenditures advocating for the election of the Fundraiser to office or the defeat of any of the Fundraiser's opponents.

5. Please provide below a statement of the result that the person, committee, or entity seeks, and a statement of the reasoning supporting that result:

NJCI seeks to confirm that it, as a Commission-registered Independent Expenditure Committee, may retain the fundraising services of the Fundraiser while remaining in compliance with Section 9h. Our reasons supporting this result are set forth in the letter we have submitted with this request. We ask, therefore, that the Commission incorporate the enclosed letter as part of this request.

6. Person who is submitting this advisory opinion request on behalf of the committee or entity listed in Question #1:

Full Name:

Rebecca Moll Freed, Esq. and Avi D. Kelin, Esq.

Mailing Address:

Genova Burns LLC

494 Broad Street, Newark, New Jersey 07102

*Day Telephone Number:

973-533-0777

*Evening Telephone Number:

973-533-0777

Fax Number:

973-533-1112

- a. Official Capacity of Person Requesting Opinion:

Candidate

☐

Treasurer

☐

Organizational Treasurer

☐

New Jersey Attorney representing requesting person, committee, or entity

☒

Other (please describe):

☐

7. I hereby consent to an extension of the 10-day response period provided in N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall start on the date of Commission receipt of the completed advisory opinion request.

(CROSS OUT THIS PARAGRAPH IF CONSENT IS WITHHELD).

8. A request for an advisory opinion will not be considered filed until a fully completed and signed application is received by the Commission.

July 23, 2019

Dated:


Signature:

*Leave this field blank if your telephone number is unlisted. Pursuant to N.J.S.A. 47:1A-1.1, an unlisted telephone number is not a public record and must not be provided on this form.



**GENOVA
BURNS**
ATTORNEYS-AT-LAW

Genova Burns LLC
494 Broad Street, Newark, NJ 07102
Tel: 973.533.0777 Fax: 973.533.1112
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Rebecca Moll Freed, Esq.
Partner
Member of NJ and NY Bars
rfreed@genovaburns.com
Direct: 973-230-2075

July 23, 2019

VIA UPS OVERNIGHT

New Jersey Election Law Enforcement Commission
25 South Stockton Street, 5th Floor
Trenton, New Jersey 08608

Re: Request for Advisory Opinion

Dear Commissioners:

We write on behalf of our client, NJ Community Initiatives ("NJCI"). NJCI is organized as and registered with the New Jersey Election Law Enforcement Commission (the "Commission") as an Independent Expenditure Only Committee. The New Jersey Campaign Contributions and Expenditure Reporting Act¹ (hereafter "the Act") prohibits any candidate from establishing, authorizing the establishment of, maintaining, or participating directly or indirectly in the management or control of, any political committee or any continuing political committee ("Section 9h").² NJCI plans to engage in independent expenditures on an ongoing basis in New Jersey and has, therefore, registered with the Commission as a continuing political committee engaged in independent expenditure activity only. NJCI wishes to retain the outside professional fundraising services of an individual who is registered with the Commission as a Professional Campaign Fundraiser and who also currently meets the definition of a "candidate" for purposes of Section 9h (the "Fundraiser").

Given that NJCI is registered with the Commission as a continuing political committee engaged only in independent expenditure activity, NJCI now seeks to confirm that it, as a Commission-registered Independent Expenditure Only Committee, may retain the outside professional fundraising services of the Fundraiser while remaining in compliance with Section 9h.

¹ N.J.S.A. 19:44A-1, *et seq.*

² N.J.S.A. 19:44A-9(h).

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I. FACTUAL BACKGROUND

NJCI is a Commission-registered Independent Expenditure Only Committee that, in accordance with the District of New Jersey's 2013 permanent injunction in the case of *Fund for Jobs, Growth, & Security v. New Jersey Election Law Enforcement Commission*, makes only independent expenditures as that term is defined in *N.J.A.C. 19:25-12.7* and may accept unlimited contributions from permitted contributors. NJCI plans to make independent expenditures in connection with New Jersey elections on an ongoing basis and has, therefore, filed a D-4 with the Commission identifying NJCI as a continuing political committee engaged in independent expenditures only.

The Fundraiser currently serves as an elected public official in New Jersey and maintains an active candidate committee that is registered with and reports to the Commission. It is our understanding that the Fundraiser therefore meets the definition of a "candidate" under *N.J.S.A. 19:44A-3(c)* and is therefore subject to the restrictions of Section 9h.

NJCI wishes to retain the outside professional fundraising services of the Fundraiser. In accordance with applicable law, the Fundraiser has provided professional fundraising services to various candidate committees in New Jersey. To date, the Fundraiser has not provided professional fundraising services to any New Jersey registered continuing political committee or independent expenditure only committee. NJCI wishes, however, to retain the services of the Fundraiser while ensuring compliance with Section 9h.

In this case, the Fundraiser's role will be limited to providing outside professional fundraising services to NJCI, in accordance with the Commission regulations for such a position under *N.J.A.C. 19:25-21.1 et seq.* To properly communicate the Fundraiser's role in NJCI, all references to the Fundraiser in NJCI communications will identify the Fundraiser as an "Outside Fundraising Professional" or similar language that clearly conveys that the Fundraiser is an outside vendor to NJCI. NJCI is also willing to take other reasonable steps to communicate the Fundraiser's outside vendor role. NJCI will pay, as consideration for the outside professional fundraising services, the Fundraiser's usual and customary fee. The Fundraiser will not play any role in, or exercise any discretion over, the management or control of NJCI, including the determination of its overall political goals or specific expenditure decisions. Further, in an abundance of caution, should the Commission determine that NJCI may hire the Fundraiser, NJCI agrees not make any independent expenditures related to any election in which the Fundraiser is seeking elective public office. In other words, NJCI will not make any independent expenditures advocating for the election of the Fundraiser to office or the defeat of any of the



New Jersey Election Law Enforcement Commission

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Fundraiser's opponents.

II. LEGAL DISCUSSION

Section 9h states that "no candidate shall establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of, any political committee or any continuing political committee." For the reasons set forth herein, the Commission should confirm that, in light of the Fundraiser's status as a registered professional fundraiser, notwithstanding the Fundraiser's status as a New Jersey candidate under the Act, NJCI may retain the Fundraiser to provide professional fundraising services while remaining in compliance with Section 9h.

Section 9h does not prohibit all candidate participation in a Commission-registered political committee or continuing political committee. Instead, it is only activities that constitute participation in the management or control of a committee that are prohibited for a candidate. The Commission has advised, therefore, that a candidate may:

- Attend fundraising events for a political committee;
- Work as a volunteer to distribute literature produced by a political committee as long as the candidate does not participate in the decisions with regard to how, when, or where the literature is to be distributed;
- Engage in public education about a public question provided that such participation does not suggest that the candidate is directly or indirectly involved in the control or management of the committee; and
- Obtain signatures on a petition.

ELEC Advisory Opinion 06-1998. Similarly, as long as the candidate does not participate in decision-making with regard to the content of a communication, a political committee or continuing political committee may make reference to or discuss the policies of a candidate "because this activity does not rely on the candidate's permission or approval." *Id.*

In this case, the Commission should recognize that NJCI may retain the outside professional fundraising services of the Fundraiser while remaining in compliance with Section 9h because the provision of outside professional fundraising services does not implicate the

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exercise of direct or indirect management or control over NJCI. Instead, the Fundraiser will solely provide outside professional fundraising services at the direction of NJCI leadership. Here, the Fundraiser will not play any role in, or exercise any discretion over, the management or control of NJCI, including the determination of its overall political goals or specific expenditure decisions. Instead, these and all other operating decisions for NJCI will be made by the Chair and Treasurer of the committee. Further, in an abundance of caution, should the Commission determine that NJCI may hire the Fundraiser, NJCI agrees not make any independent expenditures related to any election in which the Fundraiser is seeking elective public office. In other words, NJCI will not make any independent expenditures advocating for the election of the Fundraiser to office or the defeat of any of the Fundraiser's opponents.

While the Commission has advised in the past that certain fundraising activities by a candidate are prohibited—such as use of a candidate's signature on a continuing political committee's fundraising communications—because the power of the candidate to grant, withhold, or withdraw permission to use his or her signature provides “the candidate with a degree of influence and control over the CPC,”³ the Commission's guidance in those situations does not address the scenario of an outside professional fundraiser. In the scenario addressed in previous Commission advisory opinions in which a candidate sought to engage in certain fundraising activities on behalf of a Commission-registered committee because of a political or ideological affinity with the committee, the candidate held influence over the committee by maintaining the power to permit or withdraw implicit or express endorsements for the committee's fundraising efforts. In this case, NJCI maintains control and power over the relationship with the Fundraiser just as any client directs and controls the relationship with an outside vendor. Instead, an individual who provides outside professional fundraising services plays the same role as any other outside vendor, such as outside legal counsel or outside accounting providers, who serve in a commercial context at the direction and pleasure of the hiring committee. For these reasons, because the Fundraiser will in practice exercise no discretion or control over the direction and decisions of NJCI but will instead provide services to NJCI in an arms-length commercial transaction, the Commission should recognize that NJCI may retain the Fundraiser to provide outside professional fundraising services while remaining in compliance with Section 9h.

³ See *ELEC Advisory Opinion 07-1994*.



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III. CONCLUSION

For the reasons stated above, NJCI respectfully requests that the Commission recognize that NJCI may retain the outside professional fundraising services of the Fundraiser while remaining in compliance with Section 9h.

Please contact us if you have any questions or require any additional information.

Very truly yours,

GENOVA BURNS LLC


REBECCA MOLL FREED

On the Letter:
Avi D. Kelin, Esq.

RMF/orc
#14822039v4 (24080.001)



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August 14, 2019

VIA EMAIL AND UPS OVERNIGHT

Demery J. Roberts, Esq.
Legal Director
New Jersey Election Law Enforcement Commission
25 South Stockton Street, 5th Floor
Trenton, New Jersey 08608

Re: Request for Advisory Opinion

Dear Ms. Roberts:

We have received your letter, dated August 1, 2019, requesting additional information in connection with the advisory-opinion request we submitted on behalf of our client, NJ Community Initiatives ("NJCI"), dated July 23, 2019.

In response to your first question, NJCI wishes to retain the outside professional fundraising services of Stephanie Wohlrab. Ms. Wohlrab is registered with the New Jersey Election Law Enforcement Commission (the "Commission") as a Professional Campaign Fundraiser. Ms. Wohlrab also serves as a member of the Brick Board of Education and currently maintains a candidate committee, Wohlrab for Brick Board of Education, that is registered with and reports to the Commission.

In response to your second question, there are no active committees related to NJCI. By way of background, NJCI did initially register with the Federal Election Commission (the "FEC") when the committee was first established. At the time that NJCI filed a Statement of Registration with the FEC on June 5, 2019, Ms. Wohlrab was listed as Treasurer. A copy of

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the FEC Registration Statement is annexed hereto as Exhibit A. However, after discussion with our firm and following a process of identifying and refining the objectives and goals of the committee, we advised NJCI that, based on its proposed objective of strengthening New Jersey communities by promoting social justice issues and independently supporting candidates on a local and state level who share the organization's vision for a better New Jersey, the committee should be registered with the Commission and not with the FEC. While registered with the FEC, NJCI did not raise any funds or conduct any activities. Based on this lack of activity and refined scope of purpose, NJCI terminated its FEC registration on June 25, 2019 by filing Form 99 with the FEC. NJCI's reasons for termination included the facts that the committee did not engage in any activity, did not engage in any fundraising activity, did not incur any expenses, and decided not to move forward. A copy of NJCI's FEC Form 99 is annexed hereto as Exhibit B. NJCI's FEC termination request was accepted by the FEC on July 8, 2019. A copy of the Notice of Accepted Termination that NJCI received from the FEC is annexed hereto as Exhibit C. Aside from this now-terminated FEC committee, there are no related committees registered with either the Commission or the FEC, or in any other jurisdiction.

As set forth above, given that NJCI's intended focus is on New Jersey state and local independent expenditures, upon receiving confirmation that the FEC termination was effective, NJCI then filed an initial Form D-4 with the Commission on July 8, 2019. (An amended Form D-4 was filed on July 29, 2019 to provide updated bank-account information.) NJCI applied for and obtained its federal Employer Identification Number from the IRS on July 8, 2019.

Despite the filing of the initial FEC Registration Statement, NJCI and Ms. Wohlrab understand that she is not permitted to serve as Treasurer of NJCI as a Commission-registered entity. Her appearance on the FEC Registration Statement was limited to a scenario in which NJCI would make independent expenditures in connection with federal elections only. In the period of time between the filing of the Notice of Termination with the FEC on June 25, 2019 and the filing of the initial Form D-4 with the Commission on July 8, 2019, our firm discussed with NJCI the possibility of seeking an Advisory Opinion from the Commission to determine whether NJCI may retain the outside professional fundraising services of Ms. Wohlrab given her status as a candidate and in light of the prohibition set forth at *N.J.S.A. 19:44A-9(h)*. We further advised NJCI that, unless and until the Commission determined in its response to our advisory-opinion request that a candidate may provide outside professional fundraising services to a Commission-registered Independent Expenditure Only Committee under *N.J.S.A. 19:44A-9(h)*, Ms. Wohlrab should not play any role in the operation or management of NJCI now that the committee is registered with the Commission.

New Jersey Election Law Enforcement Commission
August 14, 2019
Page 3

We trust that this correspondence provides the Commission with the relevant information it requires with respect to the now-terminated FEC registration of NJCI and Ms. Wohlrab's status as Treasurer on the FEC Registration Statement of a federally registered entity that did not engage in any activity. Please contact me if you have any questions, or require any additional information. It is our understanding that, after receipt of this correspondence and unless the Commission has any additional questions, the Commission will deem our advisory-opinion request as received.

Very truly yours,

GENOVA BURNS LLC


REBECCA MOLL FREED

RMF/gda

14901616v6(24080.001)

EXHIBIT A

**FEC
FORM 1****STATEMENT OF
ORGANIZATION**

Office Use Only

1. NAME OF COMMITTEE (in full) ☐ (Check if name is changed) Example: If typing, type over the lines.

12FE4M5

NJ COMMUNITY INITIATIVES

ADDRESS (number and street)

PO BOX 1964

☐ (Check if address is changed)

BRICK

CITY ▲

NJ

STATE ▲

08723

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

☐ (Check if address is changed)

swohlrab1@gmail.com

Optional Second E-Mail Address

swohlrab1@aol.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

☐ (Check if address is changed)

2. DATE

M M / D D / Y Y Y Y
06 05 / 2019

3. FEC IDENTIFICATION NUMBER ►

C C00708354

4. IS THIS STATEMENT ☒ NEW (N) OR ☐ AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer WOHLRAB, STEPHANIE, A.,

Signature of Treasurer

WOHLRAB, STEPHANIE, A.,

[Electronically Filed]

Date

M M / D D / Y Y Y Y
06 05 / 2019

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office
Use
OnlyFor further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100**FEC FORM 1**
(Revised 06/2012)

5. TYPE OF COMMITTEE

Candidate Committee:

- (a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate

Candidate Party Affiliation

Office Sought:

House

Senate

President

State

District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate

Party Committee:

- (d) ☐ This committee is a (National, State or subordinate) committee of the (Democratic, Republican, etc.) Party.

Political Action Committee (PAC):

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:
- ☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization
- ☐ Membership Organization ☐ Trade Association ☐ Cooperative
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- (f) ☒ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- ☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

Joint Fundraising Representative:

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

- | | | | |
|----|----------------------|---------------|----------------------|
| 1. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 2. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 3. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 4. | <input type="text"/> | FEC ID number | <input type="text"/> |

Write or Type Committee Name

NJ COMMUNITY INITIATIVES**6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor**

NONE

Mailing Address

CITY

STATE

ZIP CODE

Relationship: ☐ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor**7. Custodian of Records:** Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name

WOHLRAB, STEPHANIE, A.,

Mailing Address

PO BOX 1964

BRICK

NJ

08723

Title or Position

CITY

STATE

ZIP CODE

TREASURER

Telephone number

732

674

4199

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).Full Name
of Treasurer

WOHLRAB, STEPHANIE, A.,

Mailing Address

PO BOX 1964

BRICK

NJ

08723

Title or Position

CITY

STATE

ZIP CODE

TREASURER

Telephone number

732

674

4199

Full Name of Designated Agent VENEZIA, LOUIS, G.,
Mailing Address 33 BRIAN ROAD
WEST CALDWELL NJ 07006
CITY STATE ZIP CODE
Title or Position ASSISTANT TREASURER
Telephone number 973 - 632 - 3609

9. **Banks or Other Depositories:** List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

TD BANK
Mailing Address 1049 CEDAR BRIDGE AVE
BRICK NJ 08723
CITY STATE ZIP CODE

Name of Bank, Depository, etc.

Mailing Address
CITY STATE ZIP CODE

FEC MISCELLANEOUS TEXT RELATED TO A REPORT, SCHEDULE OR ITEMIZATION

Form/Schedule: F1N

Transaction ID :

Consistent with the stipulated judgment in *Carey v. FEC*, this committee intends to establish a separate bank account to deposit and withdraw funds raised in unlimited amounts from individuals, corporations, labor organizations, and/or other political committees. The funds maintained in this separate account will not be used to make contributions, whether direct, in-kind, or via coordinated communications, or coordinated expenditures, to federal candidates or committees.

Form/Schedule:

Transaction ID:

EXHIBIT B

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

NAME OF COMMITTEE (In
NJ COMMUNITY INITIATIVES

FEC IDENTIFICATION

C00708354

Mailing PO BOX 1964

City	Sta	ZIP
BRICK	NJ	08723

No activity
Did not open bank account or begin fundraising activities
No expenses have occurred
Committee is not moving forward

EXHIBIT C



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-K

July 8, 2019

STEPHANIE A. WOHLRAB, TREASURER
NJ COMMUNITY INITIATIVES
P.O. BOX 1964
BRICK, NJ 08723

IDENTIFICATION NUMBER: C00708354

REFERENCE: TERMINATION REPORT, RECEIVED 06/25/2019

Dear Treasurer:

Your committee's filing has been accepted as a valid termination as it meets the conditions set forth in 52 U.S.C. §30103(d) (formerly 2 U.S.C. §433(d)) and Section 102.3 of the Commission's Regulations. Your committee is no longer required to file reports on a periodic basis. However, 52 U.S.C. §30102(d) (formerly 2 U.S.C. §432(d)) and Sections 102.9(c) and 104.14(b)(3) of the Commission's Regulations require that you maintain your records and copies of reports for inspection for at least three (3) years. In addition, you may be required to respond to Commission requests for information regarding your committee's federal election activity and previously filed reports.

If your committee again becomes active in federal elections, it will be required to re-register with the Commission in accordance with the Federal Election Campaign Act and applicable Regulations. Your committee will be treated as a new entity by the Commission and should register as a new committee on FEC FORM 1, pursuant to 52 U.S.C. §§30102(g) and 30103(a) (formerly 2 U.S.C. §§432(g) and 433(a)).

If you have any questions concerning your status and requirements, please contact the Reports Analysis Division on the toll-free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). My local number is (202) 694-1393.

Sincerely,

A handwritten signature in cursive script that reads "Sean Krieger".

Sean Krieger
Campaign Finance Analyst
Reports Analysis Division